

FIFTY-SEVENTH DAY
(Tuesday, April 17, 1973)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Gammage, Harrington, Harris, Herring, Hightower, Jones, Kothmann, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Schwartz, Sherman, Snelson, Traeger, Wallace and Wolff.

The following Senators were absent-excused: Blanchard and Santiesteban.

A quorum was announced present.

The Reverend Armistead Powell, All Saints' Episcopal Church, Austin, Texas, offered the invocation.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVES OF ABSENCE

Senator Blanchard was granted leave of absence for today on account of illness on motion of Senator Hightower.

Senator Santiesteban was granted leave of absence for today on account of important business on motion of Senator Wallace.

REPORTS OF STANDING COMMITTEES

Senator Moore submitted the following reports for the Committee on State Affairs:

H.B. 178
S.R. 472
H.B. 182
H.B. 1289 (Amended)
S.B. 858 (Amended)
S.B. 391 (Amended)

Senator Brooks submitted the following reports for the Committee on Human Resources:

S.B. 855
C.S.S.B. 456 (Read first time)
C.S.S.B. 283 (Read first time)
C.S.H.B. 166 (Read first time)

Senator Wallace submitted the following reports for the Committee on Intergovernmental Relations:

H.B. 915
C.S.S.B. 281 (Read first time)
S.B. 137
C.S.S.B. 743 (Read first time)
S.B. 107
S.B. 742 (Amended)

S.B. 741 (Amended)
S.B. 740 (Amended)
S.B. 749
H.B. 100
S.B. 872
S.B. 590
S.B. 494

BILLS SIGNED

The President announced the signing in the presence of the Senate after the caption had been read, the following enrolled bills:

S.B. 239
S.B. 483

MESSAGE FROM THE HOUSE

Hall of the House of Representatives
Austin, Texas, April 17, 1973

Honorable William P. Hobby
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 596, A bill to be entitled An Act declaring the public policy of the State of Texas; invalidating provisions for indemnity in certain contracts where there is negligence attributable to the indemnitee; defining terms; specifying the applicability of the Act; and declaring an emergency.

Respectfully submitted,
DOROTHY HALLMAN
Chief Clerk, House of Representatives

SENATE RESOLUTION 579

Senator Herring offered the following resolution:

WHEREAS, The work of the Texas Senate is greatly expedited by its pages, a corps of young people who render valuable service to all members and their staffs; and

WHEREAS, These school-age boys and girls merit the admiration and friendly regard they enjoy in the statehouse because of the manner in which they perform their duties, their efficiency and their fine conduct; and

WHEREAS, Their ability to work in government at an early age promises much in the way of good citizenship and leadership among the pages, who are outstanding examples of youthful energy and enterprise; and

WHEREAS, Pages who are serving in the Regular Session of the 63rd Legislature are Darrell Ayers, Mike Brooks, Roy Crenshaw, Doug Dabbs, Kevin Flack, Mark Gray, Eric Grayson, Danny Hazen, Brett Hessenius, Charles (Stan) Hudson, Martha Isbell, John Jensen, Donna Johnson, Mike Monzingo, Camille Prentice, Marck Puckett, Bill Roberts, Mike Rylander, John Schneider, Richard Scott, Alistair Tees, Ruben Trevino, Frank Ward, Reb Wayne and Larry Young; now, therefore, be it

RESOLVED, That the Texas Senate express its deep appreciation of the services given by these pages and extend to them its warm good wishes for their happiness and success in the years to come.

HERRING

The resolution was read.

On motion of Senator Harris and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Herring, the resolution was adopted.

CO-AUTHOR OF SENATE BILL 670

On motion of Senator Braecklein and by unanimous consent, Senator Harris will be shown as Co-author of S.B. 670.

SENATE BILLS AND RESOLUTION ON FIRST READING

By unanimous consent, the following bills and resolution were introduced, read first time and referred to the Committee indicated:

By Senator Herring:

S.B. 924, A bill to be entitled An Act relating to the authority of the Adjutant General to accept and expend funds from federal and state agencies and political subdivisions; amending Article 5781, Revised Civil Statutes of Texas, 1925, as amended, by adding a Section 15; and declaring an emergency.

To Committee on Finance.

By Senator Moore:

S.B. 925, A bill to be entitled An Act to provide a supplemental service retirement compensation benefit for commissioned law enforcement officers of the Department of Public Safety, Alcoholic Beverage Commission and Parks and Wildlife Department, and custodial officers of the Department of Corrections; creating a fund from which such supplemental benefit payments may be made; providing for certification of service by the Department or Commission; providing for administration of the Act and investment of funds; prohibiting the use of funds provided by the Act for payment of any benefit other than provided by the Act and prohibiting the use of funds provided under the State Employees Retirement Act for payment of benefits provided under this Act; providing a penalty for conversion of funds and fraud; providing an effective date and declaring an emergency.

To Committee on State Affairs.

By Senator Mengden:

S.B. 926, A bill to be entitled An Act relating to protection of the health and welfare of residents of the state, inhabitants of Harris County Water Control and Improvement District No. 99 and students, teachers, and other personnel of Spring High School and prevention of pollution of the water of the State of Texas; empowering and permitting Harris County Water Control and Improvement District No. 99 to discharge municipal waste at a discharge point on Cypress Creek in Harris County, Texas, within certain volumes and quality standards and to construct a sanitary sewer collection, disposal and treatment system and to operate the same; validating all acts and proceedings of the district relating to construction of a sanitary sewer collection, treatment, and waste disposal system and obtaining authority to discharge municipal wastes therefrom; providing for liberal construction of this Act, including grant of all permissions, certifications, or findings required to be made by the State of Texas under the provisions of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251, et seq.) finding certain facts; providing for severability; and declaring an emergency.

To Committee on Natural Resources.

By Senator Mengden:

S.B. 927, A bill to be entitled An Act relating to the prevention of pollution of the waters of the State of Texas; empowering and permitting Harris County Water Control and Improvement District No. 116 to discharge municipal waste at a discharge point on Cypress Creek in Harris County, Texas, within certain volumes and quality standards, to complete construction of a waste treatment facility and to operate the same; validating all acts and proceedings of the district relating to the construction of such waste treatment facility; finding certain facts; providing for severability; and declaring an emergency.

To Committee on Natural Resources.

By Senator Longoria:

S.C.R. 86, Granting permission to Harry Newton, Inc., et al., to sue the State of Texas.

To Committee on Jurisprudence.

HOUSE BILL ON FIRST READING

The following bill received from the House, was read the first time and referred to the Committee indicated:

H.B. 596, To Committee on Jurisprudence.

COMMITTEE SUBSTITUTE SENATE BILL 75 ON THIRD READING

The President laid before the Senate on its third reading and final passage:

C.S.S.B. 75, A bill to be entitled An Act relating to the definition and regulation of unlawful trade, acts and practices, the protection of Texas consumers, and providing for consumer remedies; amending Chapter 17, Business and Commerce Code, as amended, by adding Subchapter E; repealing Chapter 10, Title 79, Revised Civil Statutes of Texas, 1925, as amended (Articles 5069-10.01 et seq., Vernon's Texas Civil Statutes); amending Sections 13 and 7, Article 21.21, Insurance Code, and adding new Sections 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 24; and declaring an emergency.

The bill was read third time and was passed by the following vote: Yeas 23, Nays 6.

Yeas: Adams, Braecklein, Brooks, Clower, Gammage, Harrington, Herring, Hightower, Jones, Kothmann, Longoria, Mauzy, McKinnon, Meier, Mengden, Ogg, Patman, Schwartz, Sherman, Snelson, Traeger, Wallace and Wolff.

Nays: Aikin, Andujar, Creighton, Harris, McKnight and Moore.

Absent-excused: Blanchard and Santiesteban.

SENATE BILL 180 ON SECOND READING

The President laid before the Senate on its second reading and passage to engrossment:

S.B. 180 (the bill having been read second time and amended on April 3, 1973).

Question, Shall the Committee Amendment be adopted?

The Committee Amendment was adopted.

Senator Hightower offered the following Committee Amendment to the bill:

Amend S.B. 180, Sec. 8, the fifth line of such section, deleting the words "before the State Board" and inserting the words "by the Department".

The Committee Amendment was read and was adopted.

Senator Andujar offered the following amendment to the bill:

Amend S.B. 180, Sec. 5, the fourth line of such section, deleting the letters "30" and inserting the letters "15".

The amendment was read and was adopted.

On motion of Senator Hightower and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

RECORD OF VOTE

Senator Aikin asked to be recorded as voting "Nay" on the passage of the bill as amended to engrossment.

SENATE BILL 180 ON THIRD READING

Senator Hightower moved that Senate Rule 68 and the Constitutional Rule requiring bills to be read on three several days be suspended and that S.B. 180 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 3.

Yeas: Adams, Andujar, Braecklein, Brooks, Clower, Gammage, Harrington, Harris, Herring, Hightower, Jones, Kothmann, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Schwartz, Sherman, Snelson, Traeger and Wolff.

Nays: Aikin, Creighton and Wallace.

Absent-excused: Blanchard and Santiesteban.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and passed.

RECORD OF VOTES

Senators Aikin, Creighton and Wallace asked to be recorded as voting "Nay" on the final passage of the bill.

SENATE JOINT RESOLUTION 29 ON THIRD READING

The President laid before the Senate on its third reading and final passage:

S.J.R. 29, Proposing an amendment to Article XI of the Constitution of

the State of Texas by adding a new Section 5(a) to said Article XI, to authorize cities, towns, and villages to levy such ad valorem taxes as are sufficient to pay the principal of and interest on their general obligations hereafter lawfully issued; placing restrictions on the issuance of such general obligations; and providing for the submission of said constitutional amendment to a vote.

The resolution was read third time and was passed by the following vote:
Yeas 22, Nays 7.

Yeas: Adams, Braecklein, Brooks, Creighton, Gammage, Harris, Hightower, Jones, Kothmann, Longoria, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Schwartz, Sherman, Snelson, Traeger, Wallace and Wolff.

Nays: Aikin, Andujar, Clower, Harrington, Herring, Mauzy and Patman.

Absent-excused: Blanchard and Santiesteban.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 185

Senator Moore filed the following Conference Committee Report:

Austin, Texas
April 17, 1973

The Honorable William P. Hobby
President of the Senate

The Honorable Price Daniel, Jr.
Speaker of the House of Representatives

Sirs:

We, your Conference Committee appointed to adjust the differences between the House and Senate on H.B. 185 have met and adjusted our differences and beg leave to recommend that it be passed in the form attached hereto.

Respectfully submitted,

WILLIS
SALEM
POERNER
LELAND
On the part of the House

MOORE
BROOKS
SCHWARTZ
AIKIN
MEIER
On the part of the Senate

The Conference Committee Report was read.

SENATE BILL 821 ON SECOND READING

The President laid before the Senate on its second reading and passage to engrossment:

S.B. 821 (the bill having been read second time on April 3, 1973 and consideration postponed on April 9, 1973 until 11:00 o'clock a.m. today).

Question, Shall the bill be passed to engrossment?

The bill was passed to engrossment by the following vote: Yeas 20, Nays 8.

Yeas: Adams, Andujar, Braecklein, Creighton, Harrington, Harris, Herring, Hightower, Jones, Kothmann, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Sherman, Snelson and Traeger.

Nays: Aikin, Brooks, Clower, Gammage, Mauzy, Schwartz, Wallace and Wolff.

Absent: Longoria.

Absent-excused: Blanchard and Santiesteban.

MOTION TO PLACE SENATE BILL 821 ON THIRD READING

Senator Creighton moved that Senate Rule 68 and the Constitutional Rule requiring bills to be read on three several days be suspended and that S.B. 821 be placed on its third reading and final passage.

The motion was lost by the following vote: (Not receiving four-fifths vote of the Members present) Yeas 21, Nays 8.

Yeas: Adams, Andujar, Braecklein, Creighton, Harrington, Harris, Herring, Hightower, Jones, Kothmann, Longoria, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Sherman, Snelson and Traeger.

Nays: Aikin, Brooks, Clower, Gammage, Mauzy, Schwartz, Wallace and Wolff.

Absent-excused: Blanchard and Santiesteban.

COMMITTEE SUBSTITUTE SENATE JOINT RESOLUTION 4 ON SECOND READING

The President laid before the Senate on its second reading and passage to engrossment:

C.S.S.J.R. 4, Proposing an amendment to the Constitution of the State of Texas revising Article V thereof to provide for a unified judicial system composed of a supreme court, courts of appeal, district courts and county courts, and authorizing the legislature to prescribe jurisdiction thereof; providing for nonpartisan election and the qualifications, tenure and retirement of judges; creating a Judicial Council and providing for the appointment and tenure of its members and prescribing its duties; providing for administration and financing of the judicial system, for a Judicial Qualifications Commission, for a county commission, for the election and duties of county officials, and for temporary continuance of the offices of justice of the peace and constable; and providing transitional provisions.

The resolution was read second time.

Senator Aikin offered the following amendment to the bill:

Amend C.S.S.J.R. 4 by striking out Subsection "C" of Section 23, page 3.

The amendment was read and was adopted.

RECORD OF VOTE

Senator Ogg asked to be recorded as voting "Nay" on the adoption of the amendment.

The resolution as amended was passed to engrossment by the following vote: Yeas 24, Nays 5.

Yeas: Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Gammage, Harrington, Harris, Herring, Hightower, Jones, Mauzy, McKinnon, McKnight, Meier, Mengden, Ogg, Schwartz, Sherman, Snelson, Traeger, Wallace and Wolff.

Nays: Adams, Kothmann, Longoria, Moore and Patman.

Absent-excused: Blanchard and Santiesteban.

MOTION TO PLACE COMMITTEE SUBSTITUTE SENATE JOINT RESOLUTION 4 ON THIRD READING

Senator Herring moved that the Senate Rule 68 and the Constitutional Rule requiring resolutions to be read on three several days be suspended and that C.S.S.J.R. 4 be placed on its third reading and final passage.

The motion was lost by the following vote: (Not receiving four-fifths vote of Members present) Yeas 23, Nays 6.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Gammage, Harrington, Harris, Herring, Hightower, Mauzy, McKinnon, McKnight, Meier, Mengden, Ogg, Schwartz, Sherman, Snelson, Traeger, Wallace and Wolff.

Nays: Creighton, Jones, Kothmann, Longoria, Moore and Patman.

Absent-excused: Blanchard and Santiesteban.

COMMITTEE SUBSTITUTE SENATE CONCURRENT RESOLUTION 73 ON SECOND READING

The President laid before the Senate the following resolution:

C.S.S.C.R. 73, Granting Frank R. Washburn permission to sue the State of Texas.

The resolution was read.

On motion of Senator Brooks and by unanimous consent, the resolution was considered immediately and was adopted.

SENATE CONCURRENT RESOLUTION 75 ON SECOND READING

The President laid before the Senate the following resolution:

S.C.R. 75, Providing that the Attorney General shall collect and maintain an evidence bank of testimony from persons with knowledge of public use of the beaches of this state during the early years of this century and before.

The resolution was read.

Senator Schwartz offered the following Committee Amendment to the resolution:

Amend S.C.R. 75 by striking all of paragraph 10 thereof and substituting in lieu thereof the following language:

"RESOLVED, That this evidence be taken pursuant to Rule 187 of the Texas Rules of Civil Procedure, which provides for an established method of perpetuating testimony, for its introduction as evidence in a court of law in the event the witness is unable to testify in person; and be it further".

The Committee Amendment was read and was adopted.

Senator Traeger raised the Point of Order that the resolution required the Attorney General to perform certain duties and that the fiscal note required under the provisions of S.R. 219 was not attached.

The President overruled the Point of Order, stating that the resolution directed a State Official to perform normal duties of his office; therefore, it was not included under the provisions of S.R. 219.

The resolution was adopted by the following vote: Yeas 19, Nays 10.

Yeas: Adams, Aikin, Braecklein, Brooks, Clower, Creighton, Gammage, Harrington, Harris, Hightower, Kothmann, Longoria, Mauzy, Ogg, Patman, Schwartz, Snelson, Wallace and Wolff.

Nays: Andujar, Herring, Jones, McKinnon, McKnight, Meier, Mengden, Moore, Sherman and Traeger.

Absent-excused: Blanchard and Santiesteban.

SENATE CONCURRENT RESOLUTION 78 ON SECOND READING

The President laid before the Senate the following resolution:

S.C.R. 78, Granting Penroc Oil Corporation permission to sue the State of Texas.

The resolution was read.

On motion of Senator Snelson and by unanimous consent, the resolution was considered immediately and was adopted.

SENATE BILL 123 ON THIRD READING

The President laid before the Senate on its third reading and final passage:

S.B. 123, A bill to be entitled An Act providing that a person who is at least 18 years of age has all the rights, privileges, and obligations of a person who is 21 years of age; and declaring an emergency.

The bill was read third time.

Senator Adams raised the Point of Order that H.B. 120 which accomplishes some of the same purposes as S.B. 123, is on the Senate Calendar and that under Senate Rule 67 the House Bill must be substituted for S.B. 123.

The President overruled the Point of Order, stating that H.B. 120 does not accomplish all of the purposes of S.B. 123, therefore Senate Rule 67 does not apply.

Question, Shall S.B. 123 be finally passed?

NOTICES OF INTENT

The following Notices of Intent were filed with the Secretary of the Senate:

Wednesday, April 18, 1973

S.R. 472 - Senator McKnight
C.S.S.B. 109 - Senator Moore
S.B. 123 - Senator Gammage
S.B. 163 - Senator Adams
C.S.S.B. 190 - Senator Snelson
S.B. 340 - Senator Moore
S.B. 638 - Senator Longoria
S.B. 872 - Senator Traeger
S.B. 875 - Senator Snelson
H.B. 50 - Senator Hightower
H.B. 158 - Senator Creighton
H.B. 370 - Senator Mauzy
H.B. 441 - Senator Mauzy

Thursday, April 19, 1973

C.S.S.B. 283 - Senator Mauzy
S.B. 123 - Senator Gammage

Tuesday, April 24, 1973

S.B. 86 - Senator Brooks
S.B. 123 - Senator Gammage

MEMORIAL RESOLUTIONS

S.R. 580 - By Senator Snelson: Memorial resolution for Walter John Sippel, Sr.

S.R. 581 - By Senator Snelson: Memorial resolution for Mrs. Roman Carrasco.

S.R. 582 - By Senator Snelson: Memorial resolution for Mrs. Bill Eason.

S.R. 585 - By Senator McKinnon: Memorial resolution for Dr. Peter Aulina Ortiz.

S.R. 586 - By Senators McKnight, Meier and Andujar: Memorial resolution for Don J. "Windy" Ryon, Jr.

WELCOME AND CONGRATULATORY RESOLUTIONS

S.R. 583 - By Senator Jones: Extending congratulations to Cecil A. Handy.

S.R. 584 - By Senator Jones: Extending congratulations to Lothar A. Krause.

S.R. 587 - By Senator Andujar: Extending welcome to Mrs. Henry Simon, Jr.

S.R. 588 - By Senator Kothmann: Extending welcome to students from St. Gerard Regional High School.

ADJOURNMENT

Senator Adams moved that the Senate stand adjourned until 10:30 o'clock a.m. tomorrow.

The motion prevailed by the following vote: Yeas 15, Nays 14.

Yeas: Adams, Aikin, Creighton, Harris, Herring, Hightower, Jones, McKinnon, McKnight, Mengden, Moore, Patman, Sherman, Snelson and Traeger.

Nays: Andujar, Braecklein, Brooks, Clower, Gammage, Harrington, Kothmann, Longoria, Mauzy, Meier, Ogg, Schwartz, Wallace and Wolff.

Absent-excused: Blanchard and Santiesteban.

Accordingly, the Senate at 12:10 o'clock p.m. adjourned until 10:30 o'clock a.m. tomorrow.

APPENDIX

Sent To Governor

April 17, 1973

S.B. 239

S.B. 483

FIFTY-EIGHTH DAY **(Wednesday, April 18, 1973)**

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Gammage, Harrington, Harris, Herring, Hightower, Jones, Kothmann, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Schwartz, Sherman, Snelson, Traeger, Wallace and Wolff.

The following Senators were absent-excused: Blanchard and Santiesteban.

A quorum was announced present.

The Reverend Jerry J. Smith, Northwest Hills United Methodist Church,